

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

JIMMY MARK APPLEMAN, #334182	§	
VS.	§	CIVIL ACTION NO. 9:06cv53
DIRECTOR, TDCJ-CID	§	

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge Judith K. Guthrie. The Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and recommendations for disposition of Petitioner's motion to proceed *in forma pauperis* (dkt.#2).

Petitioner filed objections to the Report. Petitioner contends that he has no control over his money and that this Court should order TDCJ-CID to withdraw the \$5.00 from his account, to be paid for the filing fee. Petitioner has not shown that he has attempted to have the \$5.00 withdrawn from his account. This Court made a *de novo* review of this objection and determined that it lacks merit.

Petitioner further objects to the Report's statement that he is challenging his conviction. He contends that he is challenging his parole revocation. This Court notes that Petitioner is challenging his parole revocation rather than his conviction.

This Court finds that the Magistrate Judge's conclusions are correct, and adopts them as the Court's conclusions. The Court therefore

ORDERS that Petitioner's motion to proceed *in forma pauperis* (dkt.#2) is **DENIED**; and

ORDERS Petitioner to pay the \$5.00 filing fee within thirty days of receiving this Order, to proceed with this petition. Failure to pay the \$5.00 filing fee within thirty days may result in dismissal of the petition.

So **ORDERED** and **SIGNED** this **15** day of **March, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is positioned above a horizontal line.

Ron Clark, United States District Judge